

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27789 of 2016

WMP.No.23972 of 2016

T.Refakath Muhaideen

.. Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai-600 009.

2.The Member Secretary,
State Board of School Examinations,
(Higher Secondary)
Chennai, Tamil Nadu.

3.The Director of Government Examinations,
Directorate of Government Examinations
Higher Secondary Examinations,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to forthwith re-value the petitioner's answer sheet in respect of the Physics Paper in the Higher Secondary Examinations held in March 2016 under Examination Roll No.373343 and award 3 additional marks.

For Petitioner : M/s.AL.Gandhimathi

For Respondents : Mrs.P.Rajalakshmi
Government Advocate (Education)

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would state that he belongs to Backward Class Muslim category and in the Higher Secondary Course Examination written by him during March 2016, he has written

very well and was expecting 190 marks in Physics and 198 marks in Biology and when the results were published, to his shock and surprise, he was given 184 marks (134 in Theory and 50 in Practical) in Physics and he was given 196 marks (146 in Theory and 50 in Practical) in Biology. The petitioner would further state that the cut off mark for getting admission in M.B.B.S Course under Backward Class Muslim Category is 193.75 and the petitioner had also appeared in the National Eligibility cum Entrance Test (NEET) for getting admission in any one of the Medical College and apart from that, the petitioner had also applied for admission through counseling in the Government Medical Colleges run by the State Government. The petitioner applied for scanned xerox copies of the answer scripts and later on applied for revaluation of marks in Physics subject and after revaluation, he was given 2 marks and though he has expecting more marks.

3. Mr.AL.Gandhimathi, learned counsel appearing for the petitioner has drawn the attention of this Court to the textbook version in respect of answer to Question No.37 and would submit that as per the same, the following is the answer:

"4.3. Methods of producing induced emf
We know that the induced emf is given by the expression
$$e = -d\phi/dt = -d/dt (NBA \cos \theta)$$

Hence, the induced emf can be produced by changing
(i) the magnetic induction (B)
(ii) area enclosed by the coil (A) and
(iii) the orientation of the coil (θ) with respect to the magnetic field."

It is the further submission of the learned counsel appearing for the petitioner that instead of writing "by changing" the petitioner has written as "by increasing" and since the word "by increasing" also conveys the similar meaning to the nearest possible extent, the petitioner ought to have been awarded full mark and instead he has been awarded zero (0) marks and prays for appropriate orders. The learned counsel appearing for the petitioner, in support of her submissions, placed reliance upon the book titled "Law Lexicon by Ramanatha Iyer".

4. Per contra, Mrs.P.Rajalakshmi, learned Government Advocate appearing for the respondents would vehemently contend that at any rate the word "by changing" cannot be equated with the word "by increasing" written by the petitioner, as the entire version of the answer changes and taking into consideration of the said fact only, the petitioner was awarded zero marks and on legal plea would submit that this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, normally will not interfere with the

opinion expressed by experts and prays for dismissal of this writ petition.

5. This Court paid its best attention and anxious consideration to the rival submissions and also perused the materials placed before it.

6. As per "Law Lexicon" by Ramanatha Iyer, the word 'change' means to make or become different, to transform or convert. [Forward Construction Co. v. Prabhat Mandal, AIR 1986 SC 391]. The said book also gives the meaning to "CHANGE, ALTER, VARY" as "we change a thing by putting another in its place". Insofar as the word "increase" is concerned, the meaning given is "growth; enlargement; multiplication; which is added to the original stock by augmentation of growth; we can make it larger by whatever means we please.

7. A perusal of the answer given by the petitioner to Question No.37 would indicate that except writing the word "by changing", the petitioner has give the correct answer. The purpose of the examination is to test the skill of a student to find out whether he understood and grasps the subject and write the answers correctly and properly and testing the case of the petitioner from that angle coupled with the observations of the Hon'ble Supreme Court of India in AIR 1986 SC 391 (cited supra), so far as the answer given by the petitioner to Question No.37 is concerned, there is no much difference by using the words "by increasing" and "by changing". Therefore, in the considered opinion of the Court, the petitioner is entitled to at least one mark so far as the answer given to Question No.37 is concerned. Admittedly, the rest of the answers are found to be correct.

8. In the result, this Writ Petition is partly allowed and the third respondent is directed to award one mark to the petitioner in respect of Question No.37 and re-issue the mark sheet after making necessary corrections forthwith and The Secretary, Selection Committee, Directorate of Medical Education, No.162, Periyar E.V.R.High Road, Kilpauk, Chennai-600010, is directed to permit the petitioner to participate in the ongoing counseling being held, without prejudice to the rights of other eligible candidates falling under the said category and if he is found eligible, shall pass appropriate orders and communicate the same to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

jvm

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

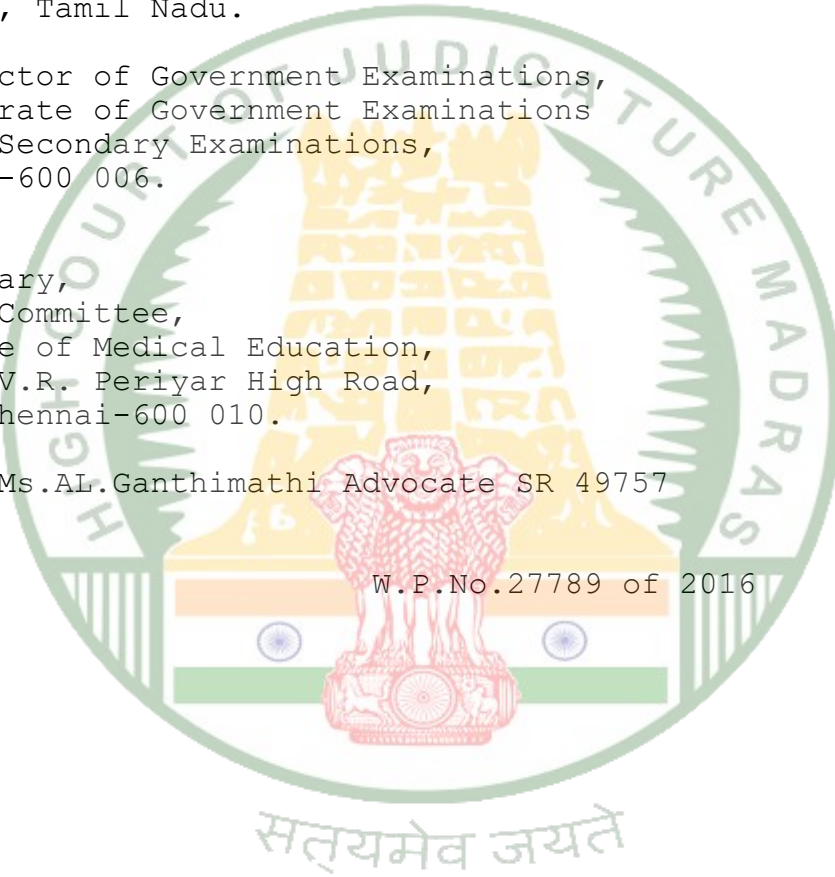
- 1.The Secretary to Government,
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Chennai-600 006.

Copy to
The Secretary,
Selection Committee,
Directorate of Medical Education,
No.162, E.V.R. Periyar High Road,
Kilpauk, Chennai-600 010.

+ 1 cc to Ms.AL.Ganthimathi Advocate SR 49757

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